

AMENDED IN ASSEMBLY MARCH 10, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 20

Introduced by Assembly Member Solorio
(Coauthor: Assembly Member Block)

December 1, 2008

An act to add Article 6 (commencing with Section 92060) to Chapter 1 of Part 57 of Division 9 of Title 3 of the Education Code, relating to the University of California.

LEGISLATIVE COUNSEL'S DIGEST

AB 20, as amended, Solorio. University of California: contracts.

Existing law establishes the University of California as a public trust administered by the Regents of the University of California. Employees of the university provide instruction to students and conduct research at each of the 10 campuses of the university, which are located in Berkeley, Davis, Irvine, Los Angeles, Merced, Riverside, San Diego, San Francisco, Santa Barbara, and Santa Cruz.

This bill would urge the regents, and require the Department of General Services, to establish a model contract with standard contract provisions *by July 1, 2010*. The bill would define the term contract to mean a research, training, or service agreement between the state and the university, or a grant from the state to the university for research, training, or service. The bill would require that, to the extent feasible, these standard contract provisions include, but not necessarily be limited to, provisions relating to specified legal issues. The bill would require that any and all standard provisions in the model contract agreed upon under the bill be used in contracts entered into between the university and the state, unless ~~either of the~~ *both* contracting parties ~~determines~~

mutually determine that a specific standard contract provision is inappropriate for a specific contract. The bill would authorize the Department of General Services to use the services of any state agency, defined to include every state office, officer, department, division, bureau, board, and commission, in implementing the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 92060) is added to Chapter 1 of Part 57 of Division 9 of Title 3 of the Education Code, to read:

Article 6. Contracts

92060. For the purposes of this article, “contract” means a research, training, or service agreement between the state and the University of California or a grant from the state to the University of California for research, training, or service.

92060.5. The Legislature finds and declares all of the following:

(a) The University of California is the state’s premier public university.

(b) The university receives about ~~\$3 billion~~ *three billion dollars* (\$3,000,000,000) from the state General Fund each year.

(c) In the 2006–07 fiscal year, state agencies and departments entered into a total of 1,266 contracts or contract amendments with the university.

(d) Many of these contracts contain similar provisions, such as provisions dealing with issues relating to liability, intellectual property, the right to undertake additional research, the right to publish, hiring, personnel, invoicing, and payments.

(e) The provisions of each contract or contract amendment are typically negotiated between attorneys representing the state agencies and departments and attorneys representing the university.

(f) The drafting of many of these contracts takes six months to a year, and, in many cases, the state is paying for both sides of the contract negotiations.

(g) It would be more cost effective and efficient if the state and the university would establish standardized “boilerplate” provisions

1 that would apply to all contracts between the state and the
2 university, allowing for variations only in unusual situations.

3 (h) The federal government has established the Federal
4 Demonstration Partnership, which provides for uniform contracting
5 provisions.

6 92061. (a) The regents are urged to, and the Department of
7 General Services, acting for the state, shall, establish a model
8 contract with standard contract provisions *by July 1, 2010*. The
9 Department of General Services shall seek the active participation
10 of state agencies and departments that have contracts with the
11 university. The model contract may be revised in a manner
12 determined by the university and the Department of General
13 Services, *in consultation with state agencies and departments that*
14 *have contracts with the university*. To the extent feasible, these
15 standard contract provisions shall include, but not necessarily be
16 limited to, provisions relating to all of the following:

- 17 (1) Liability.
- 18 (2) Intellectual property.
- 19 (3) The right to undertake additional research.
- 20 (4) The right to publish.
- 21 (5) Hiring and other personnel-related matters.
- 22 (6) Invoicing.
- 23 (7) Payments.
- 24 (8) Dispute resolution.
- 25 (9) Travel.
- 26 (10) Termination.
- 27 (11) Administrative overhead and indirect costs.

28 (b) Any and all standard provisions in the model contract agreed
29 upon pursuant to subdivision (a) shall be used in contracts entered
30 into between the university and the state, ~~unless either of the both~~
31 ~~contracting parties determines~~ *mutually determine* that a specified
32 standard contract provision is inappropriate for a specified contract.

33 (c) In implementing this section, the Department of General
34 Services may use the services of any state agency, as that term is
35 defined in Section 11000 of the Government Code.

36 (d) The Department of General Services and the university, *in*
37 *consultation with state agencies and departments that have*
38 *contracts with the university*, may determine those types of
39 contracts for which the use of the model contract would be
40 inappropriate.

- 1 (e) It is not the intent of the Legislature that the model contract
- 2 provisions waive the requirements of the law.

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